

LLC/Partnership Discussion

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**MTC Panel Discussion
Salt Lake City, Utah
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Business Law Characteristics of LLC

- Limited liability
- Simplified management
 - Designed for informal management
 - Board meetings (none)
- Distribution of earnings – simplified
- Accepted business form
- Plausible substitute for a corporation



Tax Advantages of LLCs

- The Check-the-Box regulations allow great flexibility to change tax status
- Result - the LLC can switch from:
 - Corporation to
 - Partnership to
 - Division
 - Without a change in entity
- New business law “conversion” statutes greater flexibility



Business Law Overview

- Ramifications of a conversion
 - No change in legal entity - fewer moving parts (e.g., Alpha Corporation converts to Alpha LLC)
 - Contracts executed by Alpha Corporation bind the converted entity e.g. Alpha LP or Alpha LLC
 - Alpha LP or Alpha LLC can also enforce existing contracts
 - No change in ownership of property
 - No change in leases
 - No change in licenses, permits, etc.

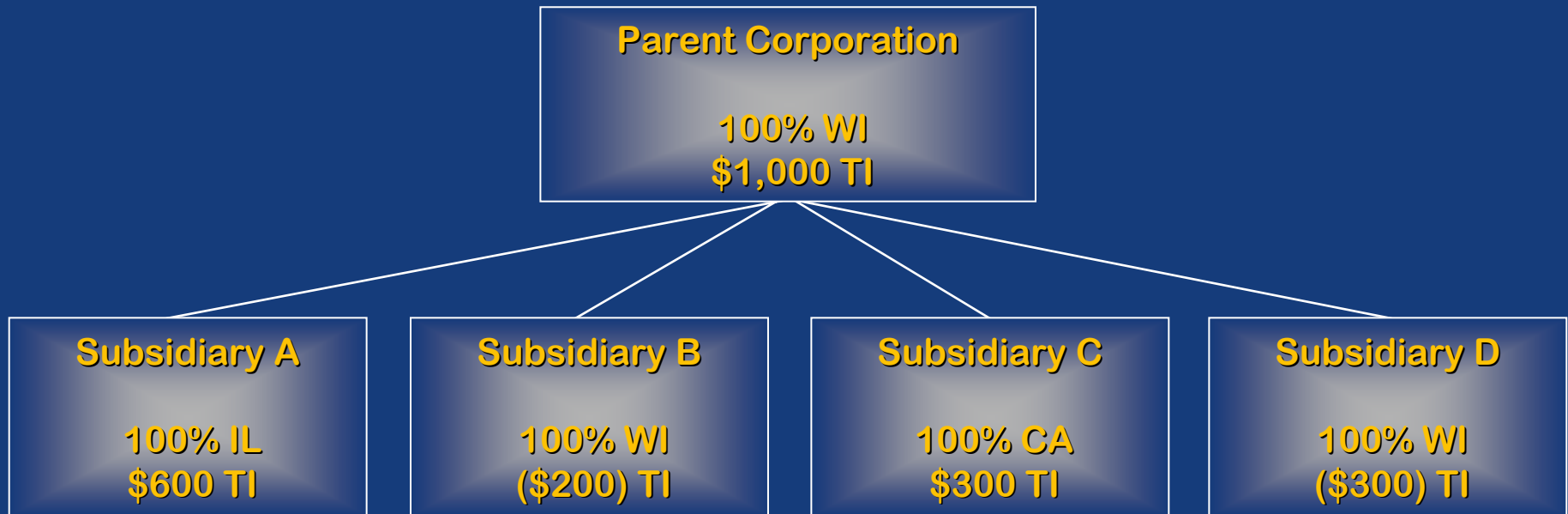


Planning Implications

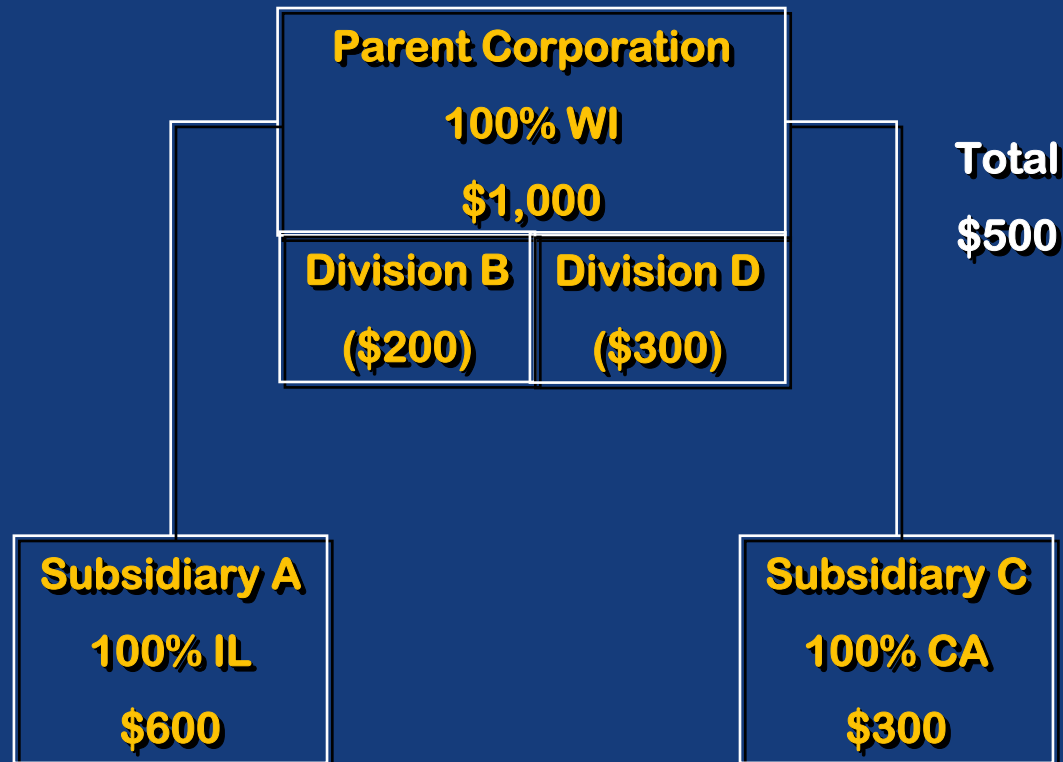
- State business law treats the LLC as static
- Result - when the LLC does its tax status change there is no legal entity change
- No legal entity change means:
 - No transfers of title or leases
 - No successor issues for contracts
 - No new letterhead, brochures or signs
 - No new employer



Affiliated Group – Trapped Losses



Affiliated Group – Trapped Losses

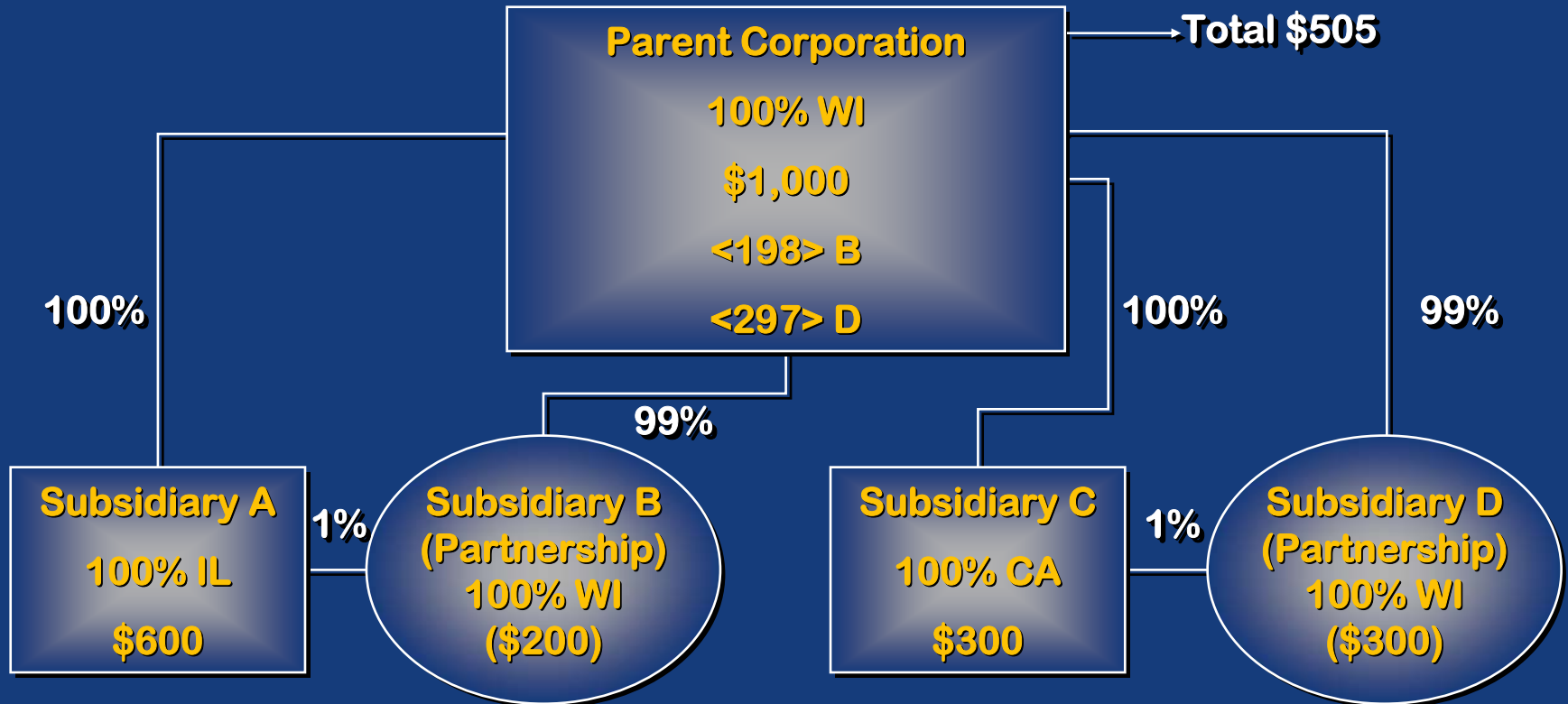


Business Concerns

- Limited liability - breached
 - Existing liabilities and obligations at parent
- Management arrangements may be impacted
- Labor agreements may be affected
- Business units may be mixed or lose identity
- Perception in marketplace may be adverse



Affiliated Group – Trapped Losses

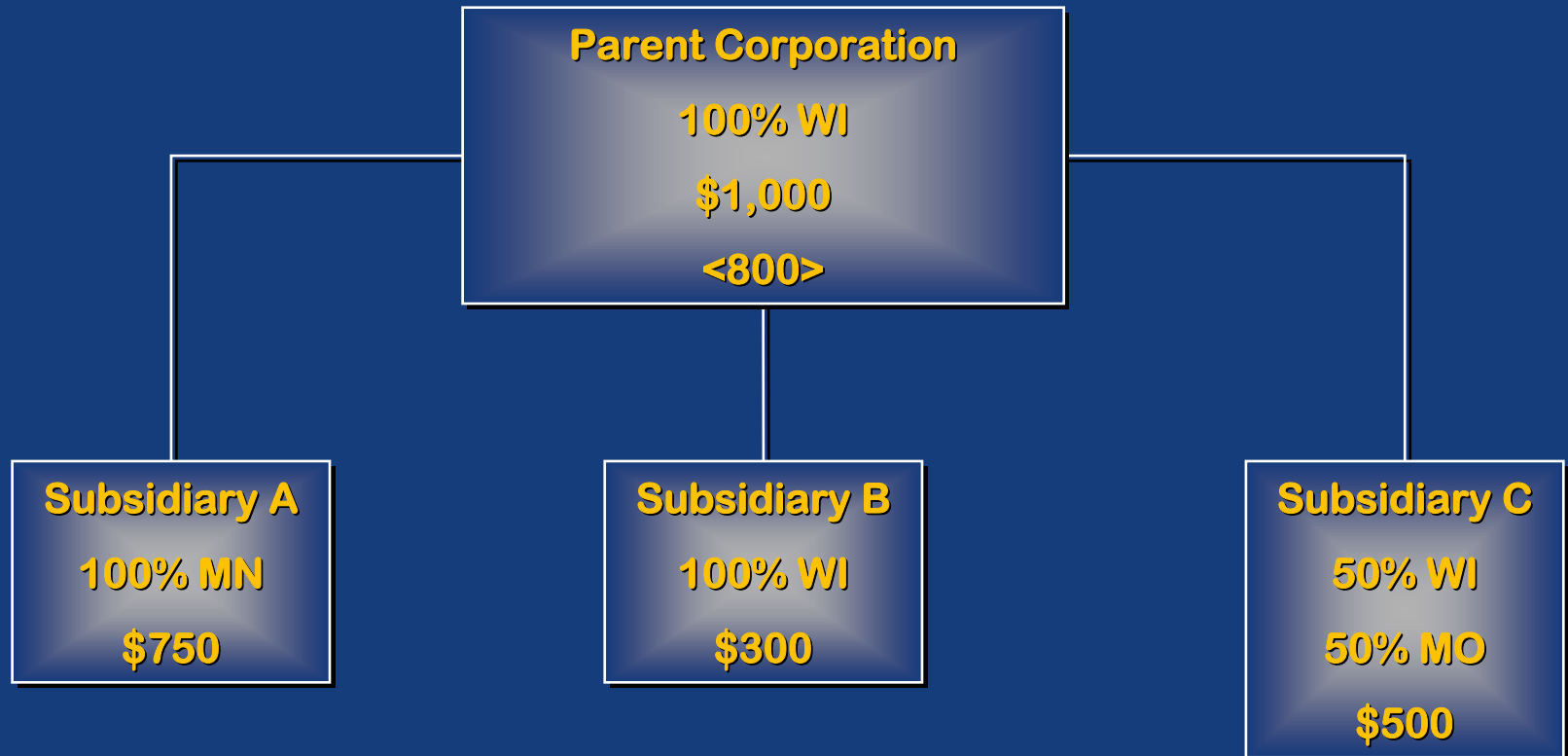


Business Concerns

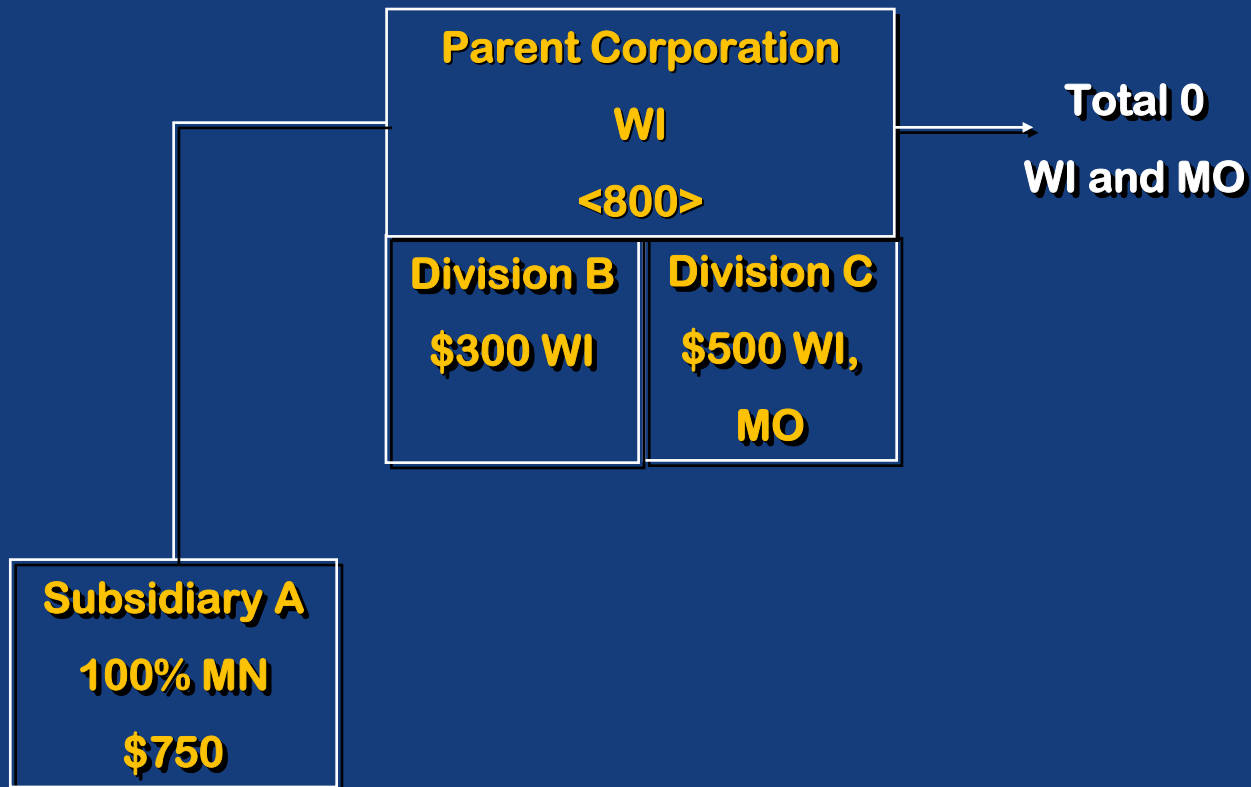
- Limited liability - breached
 - Existing liabilities and obligations at parent
- Significant federal income tax ramifications
 - Partnerships are excluded from federal consolidated group
 - Intercompany transactions are not deferred



Affiliated Group – Trapped Losses



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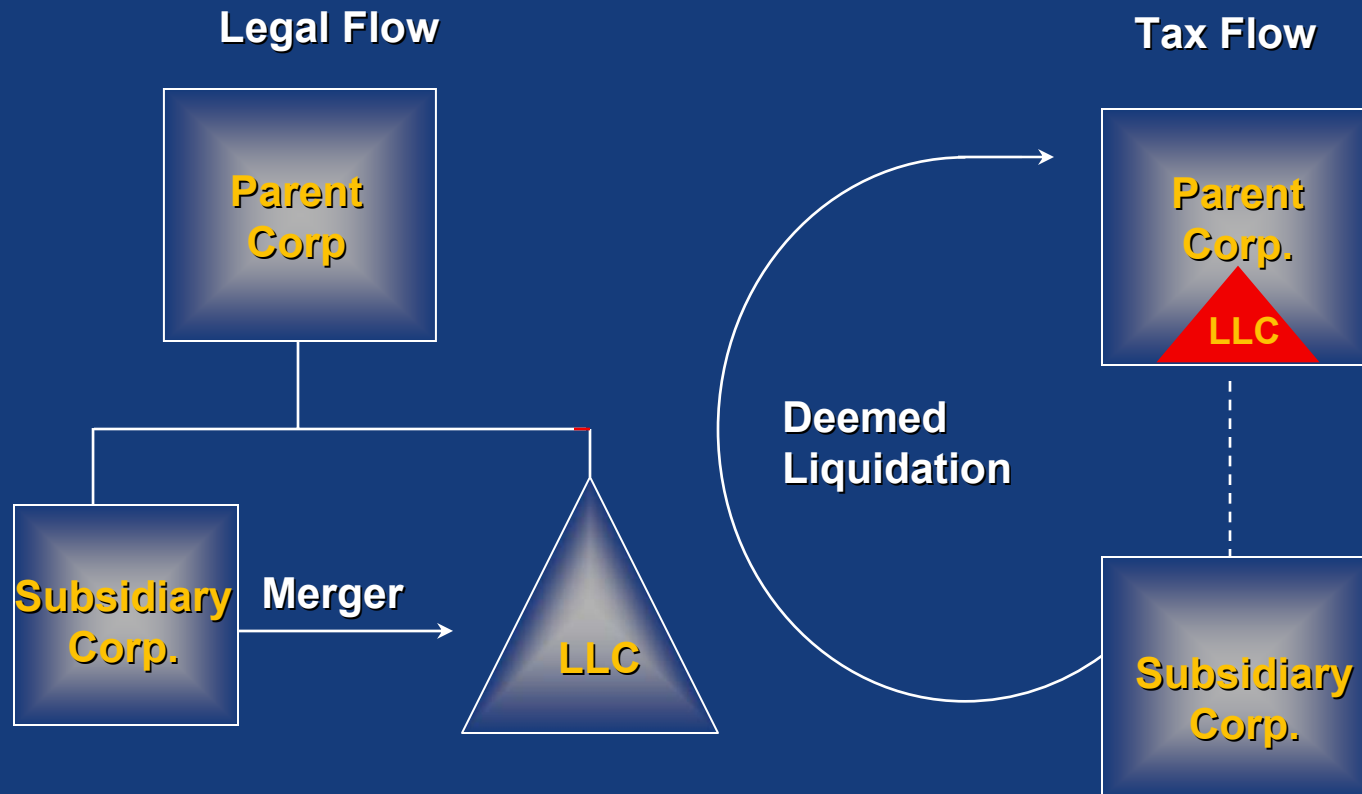


Business Concerns

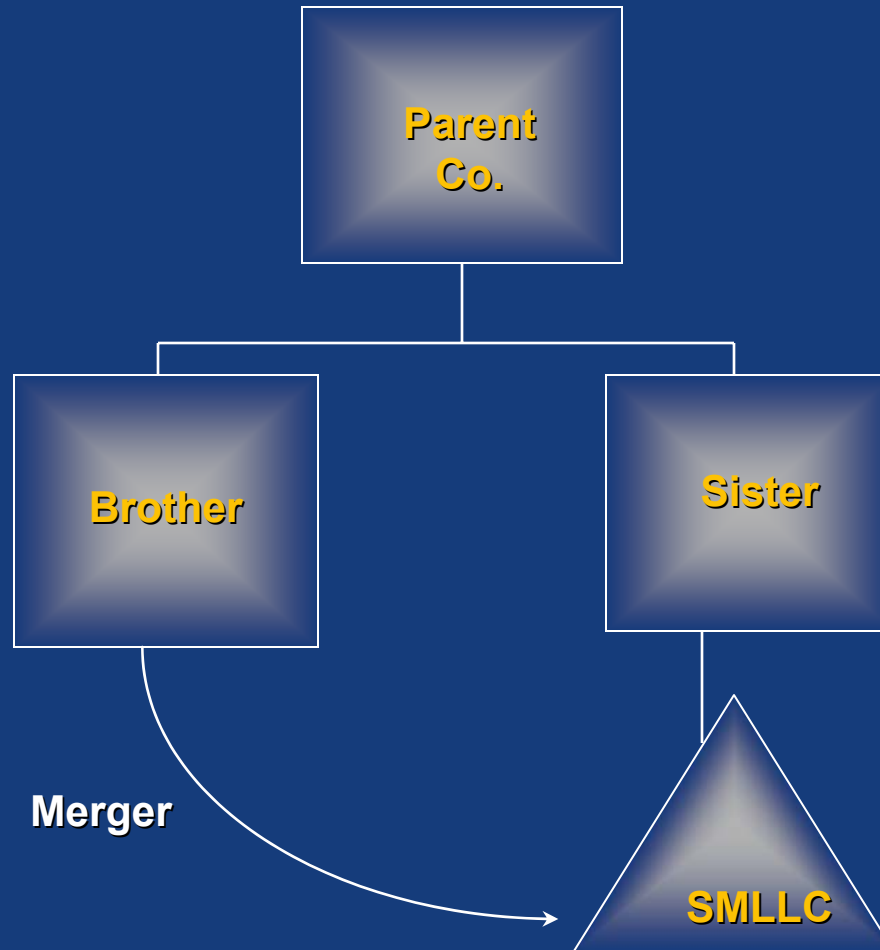
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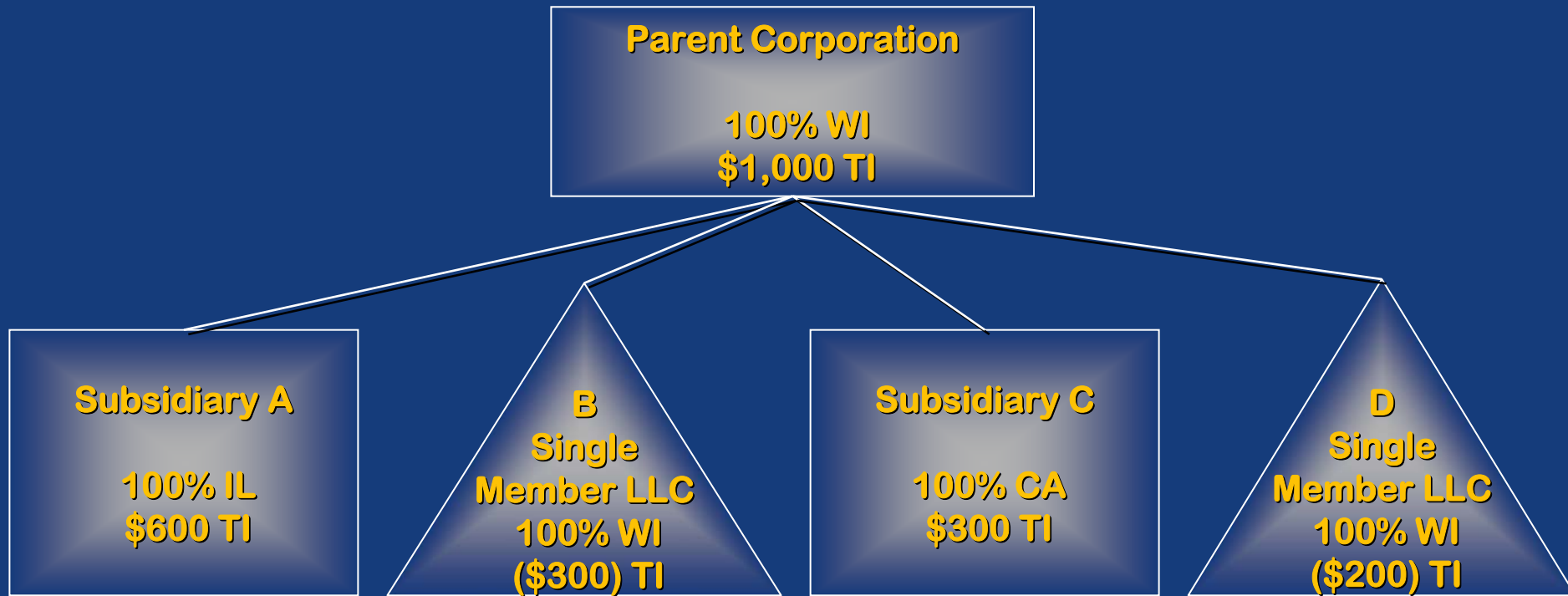
Subsidiary of Parent Merges/ Converts into Parent's SMLLC



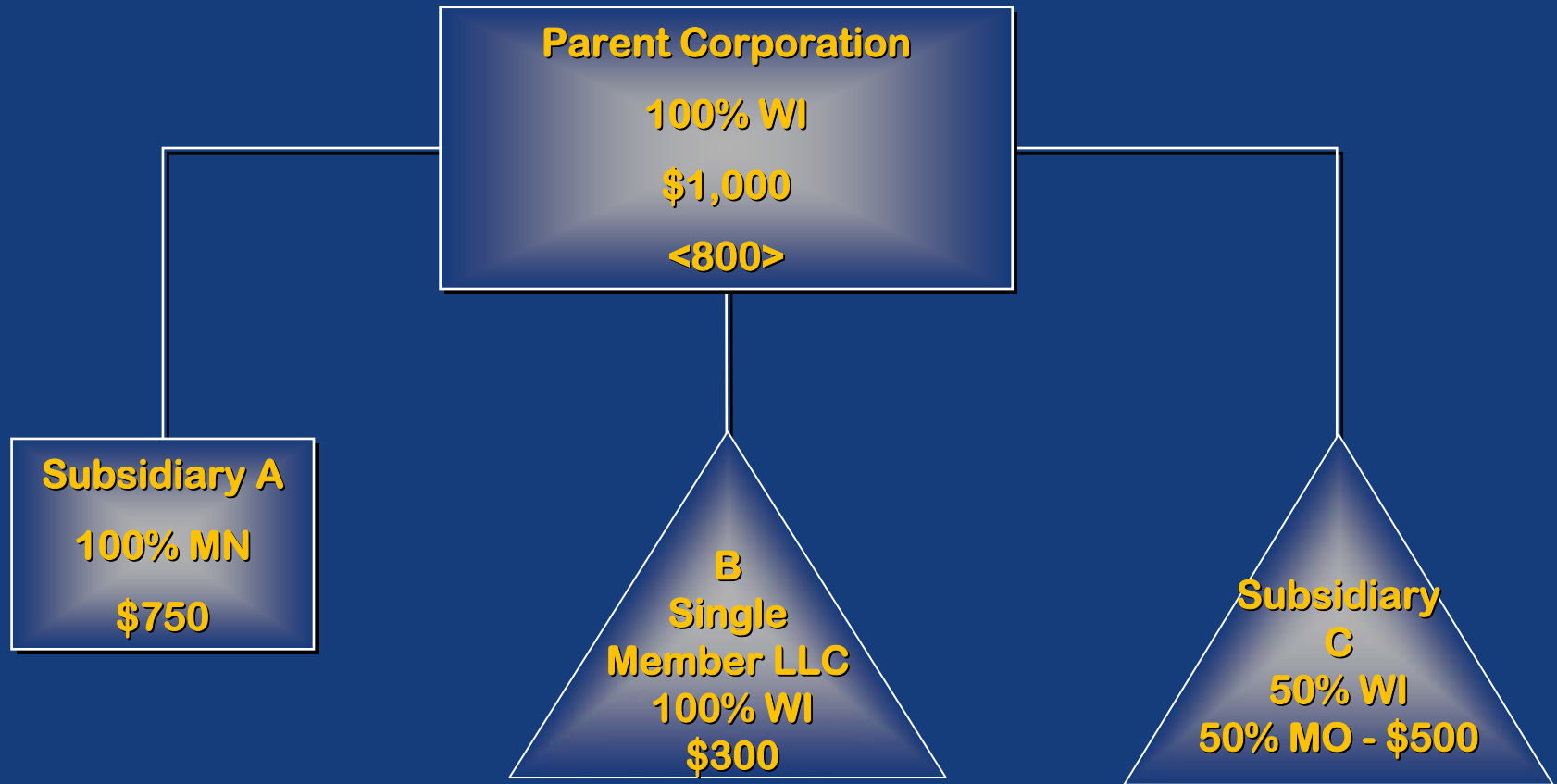
Brother Subsidiary Merges/ Converts into Sister Subsidiary's SMLLC



Affiliated Group – Trapped Losses



Affiliated Group – Trapped Losses



LLC Solutions

- Limited liability preserved
- Separate entities maintained
- No inside outside basis issues
- Fewer limitations on distribution of earnings from LLC



Apportionment Factor

OH Corporation	
\$1,000 Sales	(90% IN) (5% MI) (5% OH)
\$500 Property	(100% OH)
\$500 Payroll	(100% OH)

Current apportionment 100% OH

Apportionment Factor

OH Corporation	
\$1,000 Sales	(90% IN) (5% MI) (5% OH)
\$500 Property	(100% OH)
\$500 Payroll	(100% OH)

1%

Real Est LP

MI

Current OH Apportionment

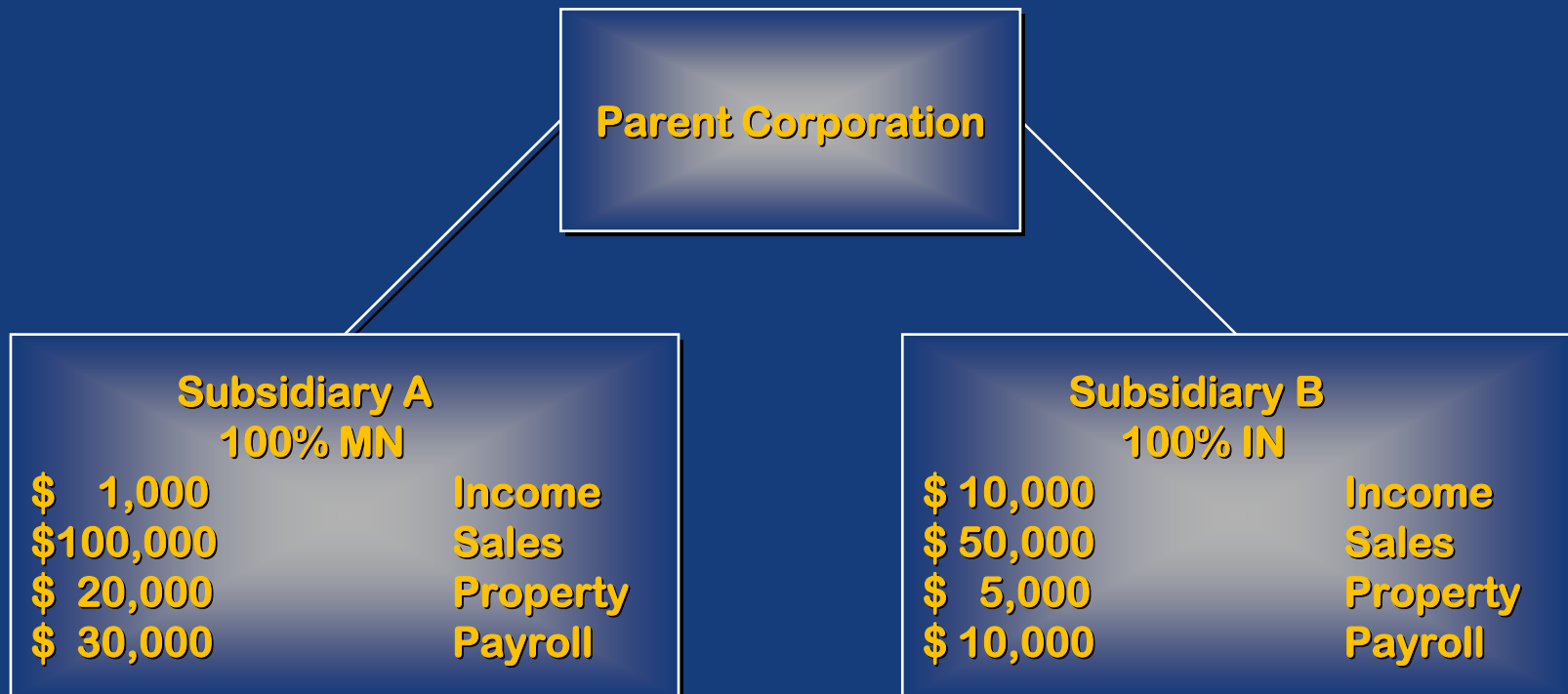
Sales 5% x .60 = 3%

Prop 100% x .20 = 20%

Payroll 100% x .20 = 20%

Total OH: 43%

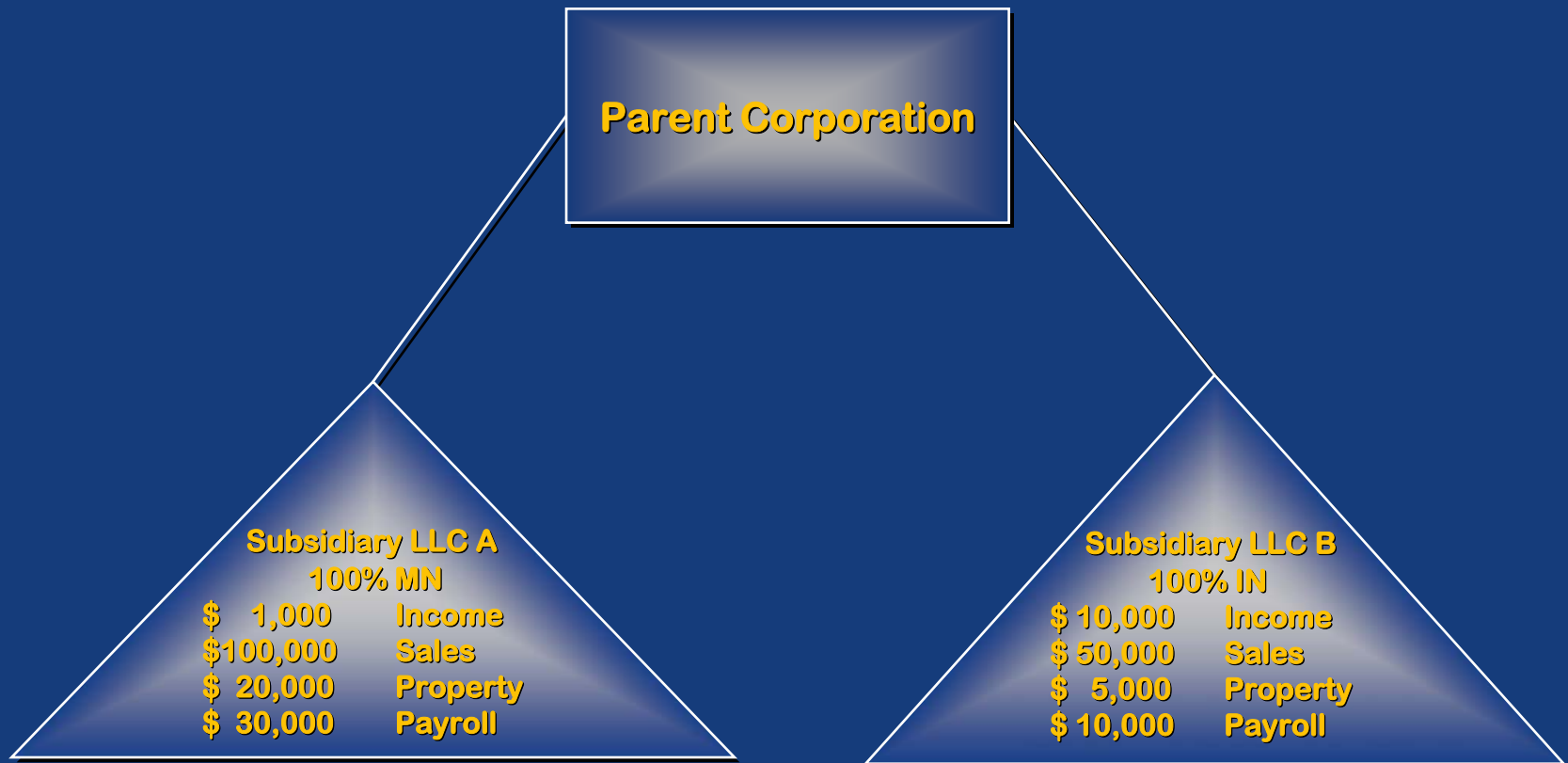
Affiliated Group – Apportionment Factors



Affiliated Group – Apportionment Factors

Parent Corporation			
Division A (MN)		Subsidiary B (IN)	
\$ 1,000	Income	\$10,000	Income
\$100,000	Sales	\$50,000	Sales
\$ 20,000	Property	\$ 5,000	Property
\$ 30,000	Payroll	\$10,000	Payroll

Affiliated Group - Apportionment Factors



Income Segregation

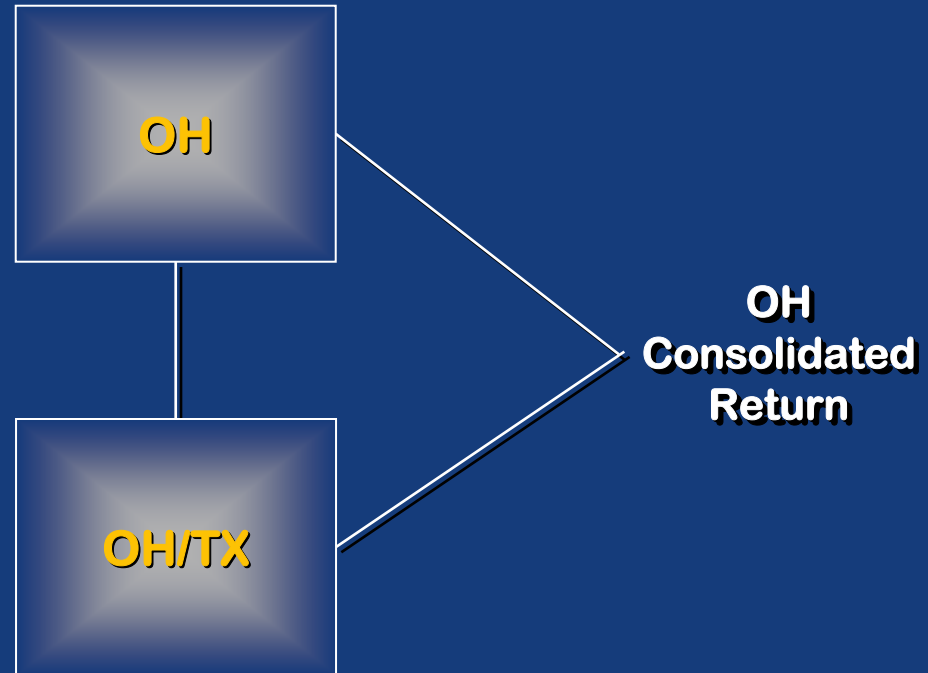


OH/TX

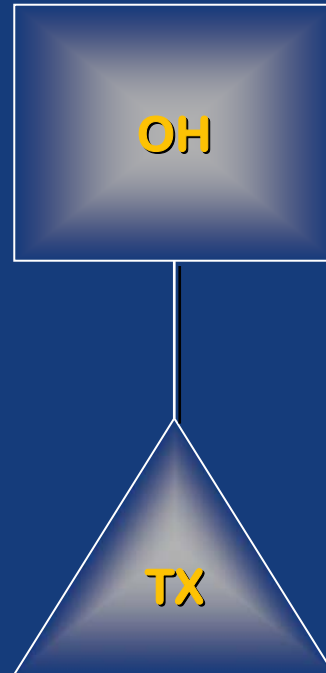
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Income Segregation



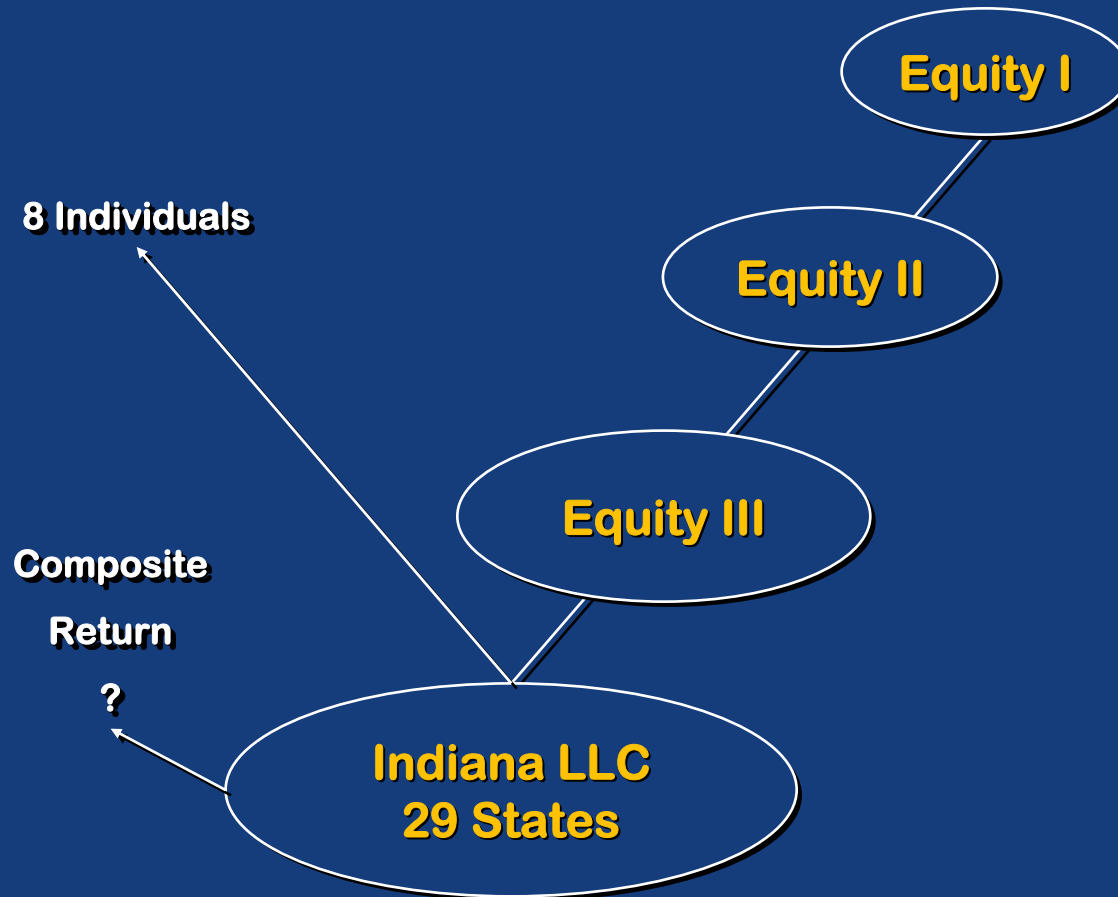
Income Segregation



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Partnership Compliance



30 Partners

$$\begin{array}{rcl} 29 \times 1 & = & 29 \\ 30 \times 29 & = & \underline{87} \\ & & 116 \end{array}$$

20 Partners

$$\begin{array}{rcl} 29 \times 1 & = & 29 \\ 29 \times 20 & = & \underline{58} \\ & & 87 \end{array}$$

20 Partners

$$\begin{array}{rcl} 29 \times 1 & = & 29 \\ 29 \times 20 & = & \underline{58} \\ & & 87 \end{array}$$

Total Return = 290